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HOUSE RESEARCH ORGANIZATION

———— daily floor report ————

Wednesday, April 26, 2017
85th Legislature, Number 57
The House convenes at 10 a.m.
Part Two

Thirty-one bills are on the daily calendar for second-reading consideration today. The bills on the General State Calendar analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.



Dwayne Bohac
Chairman
85(R) - 57

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Wednesday, April 26, 2017

85th Legislature, Number 57

Part 2

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SUBJECT: Defining school social work services in the Education Code

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — Rachel Gandy, Disability Rights Texas; Ashley Howard, National Association of Social Workers; Lara Hulin; (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Chandra Villanueva, Center for Public Policy Priorities; Ashlea Graves, Houston ISD; Celina Moreno, MALDEF; Gyl Switzer, Mental Health America of Texas; Will Francis, National Association of Social Workers Texas; Josette Saxton, Texans Care for Children; Paige Williams, Texas Classroom Teachers Association; Kyle Ward, Texas PTA; Portia Bosse, Texas State Teachers Association; Aidan Utzman, United Ways of Texas)

Against — None

On — Jan Friese, Texas Counseling Association; (*Registered, but did not testify*: Kara Belew and Monica Martinez, Texas Education Agency)

BACKGROUND: Occupations Code, sec. 505.0025 defines the practice of social work.

Education Code, sec. 21.003(b) establishes that licensed social workers may perform specific services within the social work profession for a school district.

DIGEST: HB 743 would define “social work services” within the Education Code to mean services specialized to assist students and families and designed to alleviate barriers to learning; connect the home, community, and school; promote advocacy; strengthen relationships; and assist with basic and psychosocial needs.

The bill would state that a social worker could provide social work

services to students and families in a school or district and would collaborate with school administrators and other school professionals in order to enhance students' learning environments.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply beginning with the 2017-2018 school year.

**SUPPORTERS
SAY:**

HB 743 would define the role of social workers in schools, providing clarity and guidance on the significant part social workers play in assisting students and families. Social workers across Texas have noted that school administrators do not always understand the role of these professionals in schools, which may be due to the lack of a clear definition of social work services in the Education Code.

The bill would recognize in statute the vital role school social workers play in the lives of many children and families. School social workers can serve an important function in assessing students' needs, facilitating their access to resources such as state and federal agencies and community-based organizations, and helping to strengthen relationships among students' families, the community, and schools. Placing a definition of social work services in the Education Code would help increase awareness about the impact social workers can have in schools.

While the Occupations Code defines social workers in general, it does not describe school social workers in particular. The Education Code already provides a definition for school counselors, and this bill would bring similar clarity to the role of school social workers. Many states already include a separate definition of school social workers in their statutes and HB 743 would mirror that practice in Texas.

**OPPONENTS
SAY:**

HB 743 is unnecessary because the Education Code currently grants school districts the authority to hire social workers. Further, the role and scope of social workers already is defined in the Occupations Code, and adding another definition could result in regulatory confusion. A better

and clearer approach would be to amend the Occupations Code to address social workers in school settings.

SUBJECT: Creating an offense for operating unmanned aircraft over certain facilities

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Moody, Hunter, Canales, Gervin-Hawkins, Hefner, Lang,
Wilson

0 nays

WITNESSES: For — Matt May, Houston Police Department; Rodney Thompson, Texas Probation Association; Noel Johnson, Texas Municipal Police Association; (*Registered, but did not testify*: Frank Dixon, Austin Police Department; Jennifer Wichmann, City of Arlington; Jesse Ozuna, City of Houston Mayor's Office; Arianna Smith, Combined Law Enforcement Associations of Texas (CLEAT); Neal T. "Buddy" Jones, Dallas Cowboys, Texas Motor Speedway; Gary Tittle, Dallas Police Department's Office of the Chief of Police; Colin Parrish and Amanda Schar, Harris County-Houston Sports Authority; Jay Howard, Houston Astros, Texas Rangers Baseball Club; John Greytok, Houston Texans; Martin Hubert, Rice University; James Jones, San Antonio Police Department; Donald Lee, Texas Conference of Urban Counties; Monty Wynn, Texas Municipal League; Mike Gomez, Texas Municipal Police Association; Julie Wheeler, Travis County Commissioners Court)

Against — (*Registered, but did not testify*: Ray Sullivan, Association for Unmanned Vehicle Systems International; CJ Grisham, Open Carry Texas; Chisholm)

On — Bryan Collier, Texas Department of Criminal Justice; (*Registered, but did not testify*: Ray Sullivan, Amazon; Caroline Joiner, TechNet)

BACKGROUND: Government Code, sec. 423.0045 makes it an offense for a person to intentionally or knowingly:

- operate an unmanned aircraft less than 400 feet above ground level over a critical infrastructure facility;
- allow an unmanned aircraft to make contact with a critical

infrastructure facility, including a person or object on the premises;
or

- allow an unmanned aircraft to come close enough to disturb or interfere with the operations of a facility.

A first-time offense is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000), and a subsequent offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

These provisions do not apply in certain circumstances, including if the conduct was committed by:

- the federal or state government or a governmental entity or someone acting on behalf of one of these entities;
- a law enforcement agency or a person acting on behalf of an agency; or
- an operator using the unmanned aircraft for a commercial purpose with authorization from the Federal Aviation Administration to conduct operations over the airspace.

DIGEST:

HB 1424 would add correctional and detention facilities to areas over which certain operations of unmanned aircraft are a criminal offense under Government Code, sec. 423.0045.

The bill also would create an offense for operating an unmanned aircraft less than 400 feet above ground level over certain sports venues, unless the operator was:

- a governmental or law enforcement entity or acting on behalf of such an entity;
- using the unmanned aircraft for a commercial purpose and was authorized by the Federal Aviation Administration to conduct operations over the airspace; or
- the owner/operator of the venue or acting with consent from the owner/operator.

The bill would apply only to venues with a seating capacity of at least

30,000 that were primarily used for one or more professional or amateur athletic events.

The bill would take effect September 1, 2017, and apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

HB 1424 would address concerns that law enforcement currently does not have the ability to restrict drone flights over correctional facilities or large-capacity stadiums, resulting in an increased risk to public safety. Drones can reliably carry and deliver small packages and weapons. With the speed at which drone technology is evolving and the ease with which drones can be acquired, the opportunities for nefarious uses have increased.

It is not always possible to know the intent of a drone's operator, which causes concerns for law enforcement upon seeing one. In some instances, packages including drugs, weapons, or other contraband have been flown into correctional facilities. Unauthorized videos of a sports venue focusing on the structure and its entrances and exits could be used in ways that put the public at risk.

While the Federal Aviation Administration (FAA) has the authority to regulate airspace and has created measures to restrict drone operations above sports venues and correctional facilities, local law enforcement does not enforce FAA regulations. The FAA also has indicated that local authorities often are better positioned to detect and deter unauthorized or unsafe drone operations. This bill would give local law enforcement the ability to respond to these events in certain environments and investigate an operator's intent by establishing a criminal offense under state law.

The bill would protect legitimate and permitted drone usage by providing exceptions for facility owners or operators, law enforcement, and government entities. Additionally, any facility owner or operator could give an individual operator permission to conduct drone flights without seeking governmental approval, and commercial operators could be permitted by the FAA.

OPPONENTS

HB 1424 could cause conflict with federal regulation of airspace, add

SAY: unnecessary restrictions, and potentially hinder the state's drone industry.

By prohibiting drone flights over certain facilities, the bill would regulate airspace, currently the purview of the FAA. Regulating airspace should be left to the federal government to preserve a consistent and efficient system that enhances safety. It is unnecessary to increase the scope of state government because states have a process to petition the FAA to seek additional airspace restrictions.

Federal regulations cover behavior such as careless or reckless aircraft operations, which could include delivering contraband to a correctional facility by drone. The bill would unnecessarily restrict drone operations over sports venues because the FAA already issues temporary flight restrictions prohibiting aircraft operations below 3,000 feet above ground level over stadiums with a seating capacity of at least 30,000.

Legislation restricting use of drones could result in unintended consequences and negatively affect the fast-growing industry in Texas. Hundreds of companies currently incorporate drones into their daily operation, and the bill could discourage companies and individuals that were considering commercial drone adoption.

SUBJECT: Requiring TDLR to develop a journeyman lineman exam

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — Kuempel, Guillen, Frullo, Geren, Hernandez, Herrero, Paddie, S. Thompson

0 nays

1 absent — Goldman

WITNESSES: For — Michael Mosteit, Texas State Association of Electrical Workers

Against — None

On — Brian Francis, Texas Department of Licensing and Regulation;
(*Registered, but did not testify*: Sacha Jacobson)

BACKGROUND: Occupations Code, sec. 1305.002 defines "journeyman lineman" as an individual who engages in electrical work involving the maintenance and operation of equipment associated with the transmission and distribution of electricity from its original source to a substation for further distribution.

The National Electric Safety Code published by the Institute of Electrical and Electronics Engineers sets standards for the installation, operation, and maintenance of electric supply, communication lines, and associated equipment.

DIGEST: HB 1284 would amend the definition of journeyman lineman and would create a licensing exam for journeymen linemen.

Under the bill, the definition of journeyman lineman would include individuals who installed equipment associated with the transmission and distribution of electricity, including from a substation to the point where electricity entered a building or structure on a customer's premises.

The bill would require the Texas Department of Licensing and Regulation to establish a journeyman lineman examination to test applicants' knowledge of materials and methods used in their work, as well as standards prescribed by the National Electrical Safety Code, the revised version of which the Texas Commission of Licensing and Regulation would adopt every five years. The commission would adopt rules for these purposes by March 1, 2018.

The bill would take effect September 1, 2017, and would apply to examinations administered on or after June 1, 2018.

**SUPPORTERS
SAY:**

HB 1284 would create a more valid licensing examination that focused on areas relevant to a journeyman lineman's knowledge, work, and skills. Currently to become a journeyman lineman, individuals take a licensing exam based on the National Electrical Code for electricians, which does not accurately reflect content specifically applicable to the trade. HB 1284 would require the exam to be based on the more relevant National Electrical Safety Code, which would help reduce the failure rate among individuals taking the current journeyman lineman exam.

The bill would protect the public by expanding the pool of specialized linemen permitted to work in the private sector. Although work at a utility is exempt from the licensing requirement under Occupations Code, sec. 1305.003(5), a journeyman lineman must be licensed by passing an electrician's examination to work in the private sector. Few journeymen linemen take and pass the exam because it tests areas in which they do not work. This results in fewer linemen available for private and commercial work, negatively impacting safety, competition, and economic opportunities, because these positions often are filled by electricians who do not specialize in lineman work.

HB 1284 would alter the definition of journeyman lineman to specify that these individuals could work with power lines and other electricity sources up to a structure's point of entry, such as a residential home.

**OPPONENTS
SAY:**

HB 1284 unnecessarily would change licensing regulations for journeymen linemen. A journeyman lineman already can be licensed to do

the work through an existing exam, and adding to licensing regulations could increase costs and impede competition.

NOTES: A companion bill, SB 961 by Garcia, was referred to the Senate Committee on Business and Commerce on March 1.

SUBJECT: Sending notices of certain offenses by Texas military forces members

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson
0 nays
1 absent — Hunter

WITNESSES: For — (*Registered, but did not testify*: Mark Seitz, Diocese of El Paso; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Tracy Norris, Texas Military Department)

BACKGROUND: Code of Criminal Procedure, art. 42.0183(b) requires court clerks to send to military officials notices of convictions and grants of deferred adjudication that involve criminal defendants who are members of the state military forces or serving in the U.S. armed forces on active duty. If the offense in question involves family violence or a crime under Title 5 of the Penal Code, which governs offenses against persons, the court must notify the staff judge advocate at Joint Force Headquarters or the provost marshal of the military installation to which the service member is assigned.

DIGEST: HB 1655 would require court clerks to send to the staff judge advocate general, rather than to the staff judge advocate at Joint Force Headquarters, notices of convictions or grants of deferred adjudication involving family violence or a crime against a person that were committed by a person who was a member of the state military forces or serving in the U.S. armed forces on active duty.

The bill would take effect September 1, 2017, and would apply only to convictions entered on or after that date or grants of deferred adjudication

made on or after that date.

**SUPPORTERS
SAY:**

HB 1655 would resolve confusion about where notices involving members of the state military forces who have committed certain crimes should be sent so that state military officials are aware of the situation.

Language in current law is unclear about the exact location where such notices should be sent. Statute says these notices should go to Joint Force Headquarters, which usually is interpreted to mean the whole facility of Camp Mabry in Austin, the headquarters for the Army and Air National Guard and the Texas State Guard. Without more specific instructions on where to send the notices, they can end up in the mailroom, the executive offices, or somewhere else when they should have been directed to the legal office of the judge advocate general. The time it takes for the notice to make its way to the proper office can delay notification of and action by military officials. Given the nature of family violence and crimes against persons, these situations should be handled in a timely manner, which this bill would facilitate.

HB 1655 would clear up this uncertainty by stating that these notices of convictions and deferred adjudication would be sent to the staff judge advocate general, which is the specific, physical legal office that should receive and deal with the notices.

**OPPONENTS
SAY:**

No apparent opposition.

SUBJECT: Revising certain qualifications for teachers at certain charter schools

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — Dale Underwood, Gulf Coast Trades Center, Raven School Charter; Will Gollihar, Thomas Buzbee Vocational High School; (*Registered, but did not testify*: Shannon Meroney, ACT-Dallas; Jon Fisher, Associated Builders and Contractors of Texas; Mike Meroney, Huntsman Corporation, BASF Corporation; Jennifer Rodriguez, Plumbing-Heating-Cooling Contractors Association of Texas; Courtney Boswell and Houston Tower, Texas Aspires; Fred Shannon, Texas Association of Manufacturers; Michael White, Texas Construction Association; Ellen Arnold, Texas PTA)

Against — Lindsay Gustafson, Texas Classroom Teachers Association

On — (*Registered, but did not testify*: Kara Belew, Texas Education Agency)

BACKGROUND: Education Code, sec. 12.129 requires a person employed as a principal or teacher by an open-enrollment charter school to have a bachelor's degree.

DIGEST: CSHB 1469 would amend Education Code, sec. 12.129 to allow individuals who did not hold a bachelor's degree to teach a noncore vocational course at certain open-enrollment charter schools if they had:

- demonstrated subject matter expertise related to the subject taught, including any combination of work experience, training and education, and industry license and certification; and
- received at least 20 hours of classroom management training, as determined by the governing body of the open-enrollment charter school.

The bill would apply to open-enrollment charter schools that served youth referred to or placed in a residential trade center by a local or state agency.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 1469 would allow skilled professionals without bachelor's degrees to teach vocational courses at Buzbee Vocational High School in Walker County, making it easier for them to bring experienced tradesmen and tradeswomen into the classroom. Administrators often are unable to find and retain teachers to educate students in vocational courses, and this bill would enable them to hire skilled professionals who meet every certification other than a four-year degree.

Skilled professionals could teach in vocational tech classes, regardless of whether they had a bachelor's degree, providing more opportunities for professionals such as construction workers, electricians, plumbers, mechanics, and others to teach in the classroom. Many of the skilled laborers who might teach at Buzbee Vocational High School have more than a decade of experience in their trade and would be able to impart valuable skills to students that could lead to good jobs after graduation. Students at the school are at risk and many are unlikely to get a college degree, making it even more important for them to learn a trade, which this bill would facilitate.

Concerns about this bill leading to lower standards at other open-enrollment charter schools and districts of innovation are unfounded because the committee substitute bracketed the bill to apply only to Buzbee Vocational High School, and instructors who teach core classes still would be required to have a bachelor's degree.

**OPPONENTS
SAY:**

CSHB 1469 could lower standards for certain charter schools. It also could lower standards for districts of innovation and other charter schools if the jurisdiction of this bill were ever to expand.

NOTES:

CSHB 1469 differs from the bill as filed in that the committee substitute

would apply to an open-enrollment charter school that served youth referred to or placed in a residential trade center by a local or state agency. CSHB 1469 also would specify that a person without a bachelor's degree could be employed as a teacher for a noncore vocational, rather than academic career and technical education, course.

SUBJECT: Awarding court costs and attorney's fees in certain regulatory lawsuits

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

WITNESSES: For — Trevor Whitney, Greater San Antonio Builders Association; Ned Munoz, Texas Association of Builders; (*Registered, but did not testify:* Edward Martin, Greater Houston Builders Association; Geoffrey Tahuahua, Home Builders Association of Greater Austin; Guy Herman, Statutory Probate Courts of Texas; Lee Parsley, Texans for Lawsuit Reform; David Mintz, Texas Apartment Association, Texas Institute of Building Design; Scott Norman, Texas Association of Builders; Julia Parenteau, Texas Association of Realtors; DJ Pendleton, Texas Manufactured Housing Association; Lee Woods, Texas Trial Lawyers Association)

Against — (*Registered, but did not testify:* Eddie Solis, City of Arlington; Christine Wright, City of San Antonio; Scott Houston, Texas Municipal League)

BACKGROUND: Local Government Code, sec. 245.002 prohibits regulatory agencies from reviewing construction permit applications under a different standard than one in effect at the time when the original permit application or development plan was filed. Sec. 245.006 authorizes enforcement through mandamus, declaratory, or injunctive relief.

DIGEST: HB 1704 would allow a court to award court costs and attorney's fees to the prevailing party in a suit under Local Government Code, ch. 245.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 1704 would make enforcement of existing law easier. The Local Government Code vests property rights in permit applicants, and if a

municipality tries to change the requirements for a permit after an application is filed, the applicant can enforce those vested rights through a lawsuit. Vested rights suits allowed under existing law provide only injunctive or declaratory relief. Although construction on a project may have been delayed for months or longer, the best outcome for a plaintiff undertaking the project is a court order telling the municipality not to break the law. This often makes meritorious cases unattractive to pursue due to the significant expense involved in filing and litigation, which renders vested property rights toothless.

This bill would ensure both sides of the regulatory process had an interest in carefully considering rule changes and the decision to sue because the prevailing party could recover costs and attorney's fees from the party who lost. Attorneys and their clients would have to think carefully before deciding whether to file a lawsuit, ensuring that only the most warranted cases resulted in legal action.

**OPPONENTS
SAY:**

HB 1704 could create uncertainty for local government and increase the costs of necessary rulemaking. Current law allows only injunctive or declaratory relief because any monetary damages would have to be paid with taxpayer dollars. Litigation should not be made even more expensive and complicated. The bill could make these types of lawsuits more attractive to plaintiff's attorneys, likely increasing the number of cases filed each year and the potential expense to the taxpayers.

NOTES:

A companion bill, SB 787 by Huffman, was referred to the Senate State Affairs Committee on February 22.

SUBJECT: Specifying that certain student information was not public information

COMMITTEE: Economic and Small Business Development — favorable, without amendment

VOTE: 9 ayes — Button, Vo, Bailes, Deshotel, Hinojosa, Leach, Metcalf, Ortega, Villalba
0 nays

WITNESSES: For — None
Against — None
On — Courtney Arbour, Texas Workforce Commission

BACKGROUND: Education Code, sec. 132.024(b) specifies that student information is not public information. Sec. 132.024(a)(2) defines "student information" to mean certain information held by the Texas Workforce Commission that could be used to identify a student.

Sec. 132.024(d) designates an offense in which a person solicits, discloses, receives, uses, authorizes, permits, participates in, or acquiesces in another's use of student information as a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

DIGEST: HB 2413 would amend the definition of "student information" in Education Code, sec. 132.024(a)(2) to include information held by a career school or college, or any other school, educational institution, or business entity from which the Texas Workforce Commission received, or regarding which the commission reviewed, information through its administration of career schools and colleges.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: HB 2413 would close a loophole in current statute to ensure that student information was protected. Currently, the only protected student

information is identifying information held by the Texas Workforce Commission. However, in the case of career schools, identifying information is held by the schools, not the commission, making the law ineffective.

The bill would protect the privacy of students by ensuring that their personal information was properly maintained. Some career schools have been found to dispose of student records irresponsibly, with one even throwing away boxes full of identifying information in the dumpster. Advances in technology make identity theft an increasingly prevalent threat, and schools must be accountable for protecting student information. The bill would allow TWC to enforce laws protecting student information in cases where career schools or other entities acted with negligence.

The bill also would align laws governing career schools with laws governing other educational institutions. Currently, the Family Educational Rights and Privacy Act (FERPA) requires all schools that receive funds from the U.S. Department of Education to protect student records from public access. This is a best practice for educational institutions that also should apply to career schools.

The bill would not decrease institutional transparency. Trustees and other administrators still could access student records if they provided a justifiable educational purpose, and the bill has no relation to how courts and educational institutions determine whether those purposes are justifiable.

**OPPONENTS
SAY:**

HB 2413 could decrease the transparency of educational institutions in Texas by exempting certain information from public access. Universities have used similar justifications of student record confidentiality to deny trustees access to critical student information, preventing accountability in the educational system by interfering with the ability of trustees to oversee institutional practices.

NOTES:

A companion bill, SB 2132 by Lucio, was referred to the Senate Committee on Business and Commerce on March 28.

SUBJECT: Creating the Brazoria County Management District No. 1

COMMITTEE: Special Purpose Districts — committee substitute recommended

VOTE: 7 ayes — Murphy, Perez, Bell, Cortez, Cospers, Lang, Schubert
0 nays

WITNESSES: For — Howard Cohen, Southeast Properties, Ltd.; (*Registered, but did not testify*: Bill Liles, Legacy Trust Company; Justin Bragiel, Texas Hotel and Lodging Association)

Against — None

BACKGROUND: Local Government Code, ch. 375 establishes certain regulations for the creation of a municipal management district (MMD). To create a MMD, the Texas Commission on Environmental Quality must receive a petition signed by the owners of a majority of the assessed value of real property in the proposed district or by 50 people who own real property in the proposed district. A MMD is created to supplement certain services of a municipality, including promoting employment, economic development, and public welfare. A district is not authorized to exercise the power of eminent domain.

DIGEST: CSHB 2332 would create the Brazoria County Management District No.1, a municipal management district (MMD) to pursue goals including the promotion, development, and maintenance of employment, commerce, transportation, housing, tourism, and recreation.

Creation and governance. The owners of a majority of the assessed value of the real property in the proposed district could submit a petition to the Texas Commission on Environmental Quality requesting that it appoint five temporary directors. The temporary directors would hold an election to confirm the creation of the Brazoria County Management District and to elect a board of five directors with staggered four-year terms to govern the district. Directors would be entitled to up to \$150 per day worked, not to exceed \$7,200 annually.

Powers of the district. The MMD would have powers including the provision, construction, improvement, and operation of an improvement project or service, using money available to the district. An improvement project could be located inside or outside the district. The board could not finance a service or improvement project unless a written petition signed by the owners of a majority of the assessed value of real property in the district was submitted.

The district would have the authority to annex land by petition, develop recreational facilities, maintain roads and storm drainage, employ peace officers, or create a nonprofit corporation to assist in certain projects, within certain regulations.

The Brazoria County Management District would not have the power of eminent domain.

Taxing authority. The MMD could levy a property tax or a sales and use tax, if authorized by an election. The district could issue bonds, notes, and other obligations secured by property tax revenue or contract payments without an election.

If authorized by election, the district also could impose an annual operation and maintenance tax for operation, construction, or service costs. The rate could not exceed the rate approved by election. The district also could impose a tax other than an operation and maintenance tax to make payments under a contract approved by district voters.

The MMD could impose a hotel occupancy tax of 7 percent or at a rate equal to the addition of all hotel occupancy tax rates imposed on the territory plus 2 percent, whichever was less.

Notice requirements. The bill would specify that legal notice of the bill was furnished to all persons, agencies, officials, and entities to which notice was required.

Effective date. CSHB 2332 would take effect immediately if finally passed by a two-thirds record vote of the membership of each house.

Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 2332 would create the Brazoria County Management District No. 1, which would promote and maintain local employment, economic development, and public welfare by constructing high-quality infrastructure. Specifically, the district would help develop a master planned community in the extraterritorial jurisdiction of the city of Alvin, which has stated that it has no objection to the creation of the district. The bill uses standard language for creating a municipal management district, which would give clarity to the process of creating this special district.

Municipal management districts, which qualify as true political subdivisions of the state, are efficient forms of local government necessary for construction in the unincorporated areas of a county. These areas often do not have access to other government entities or services to perform this function. Infrastructure would only be financed by the taxpayers who benefit from the construction. Residents of the city or county would not subsidize those costs.

**OPPONENTS
SAY:**

CSHB 2332 essentially would create a quasi-city government on top of an existing city, unnecessarily increasing the size and scope of government. Municipal management districts have the ability to tax and annex land for development and promotion of commerce and arts. This is not a proper role of government, and the private sector should form organizations for these purposes instead.

NOTES:

A companion bill, SB 1100 by L. Taylor, was scheduled for a public hearing today in the Senate Committee on Intergovernmental Relations.

SUBJECT: Handling of certain complaints regarding school extracurricular activities

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Huberty, Allen, Bohac, Deshotel, Dutton, Gooden, K. King,
Koop, Meyer, VanDeaver

0 nays

1 absent — Bernal

WITNESSES: For — Juan Cruz, United ISD; (*Registered, but did not testify*: Amy Beneski, Texas Association of School Administrators; Dax Gonzalez, Texas Association of School Boards; Tracy Ginsburg, Texas Association of School Business Officials; Colby Nichols, Texas Rural Education Association; Curtis Culwell, Texas School Alliance)

Against — Steve Swanson; (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas)

On — (*Registered, but did not testify*: Von Byer and Eric Marin, Texas Education Agency)

BACKGROUND: Education Code, ch. 26 establishes certain parental rights related to their students' education. Section 26.011 requires a district board of trustees to adopt a grievance procedure to address complaints concerning those rights.

Education Code, sec. 11.1511(b)(13) requires a district board of trustees by rule to adopt a process for district personnel, students or their parents or guardians, and members of the public to obtain a hearing from district administrators and the board regarding a complaint. Sec. 7.057 establishes a process for a person aggrieved by the school laws of Texas or actions or decisions by any school district board of trustees that violate those laws to appeal in writing to the Commissioner of Education.

DIGEST: HB 1669 would allow a school district board of trustees to decline to use

the district's established grievance procedure to address a complaint concerning a student's participation in an extracurricular activity that did not violate a right guaranteed by Education Code, ch. 26.

District administrators and the board of trustees also would not be required to provide a hearing regarding a frivolous complaint, which would be defined as a complaint brought by a parent or student that is without merit and brought with the intent to harass, annoy, threaten, or vex the district, a member of the board of trustees, a district employee, or a parent of a student enrolled in the district.

The bill would allow the Commissioner of Education to determine that an appeal brought by a parent or student against a district was frivolous and to order the parent or student to pay the district's reasonable attorney's fees. If an appeal involved a complaint concerning a student's participation in an extracurricular activity that did not violate a right guaranteed by Education Code, ch. 26, the commissioner would be required to order the parent or student to pay the district's reasonable attorney's fees.

The bill would take effect September 1, 2017 and would apply only to an appeal or complaint brought on or after that date.

**SUPPORTERS
SAY:**

HB 1669 would help reduce the time and costs that some school districts expend on complaints involving extracurricular activities. These complaints may be brought by parents unhappy about their child's status on an athletic or dance team and are not an appropriate use of a school board's time. The bill would clarify that a school board is not required to address a complaint concerning a student's participation in an extracurricular activity that does not involve a fundamental right guaranteed by the Education Code.

Some schools boards are fielding a growing number of trivial complaints from parents regarding their child's participation in extracurricular activities. Districts may need to consult with attorneys about responding to these complaints, which results in the spending of tax dollars on legal fees instead of student instruction. The bill would not prevent a district from investigating a complaint involving a serious issue such as

discrimination or harassment of a student participating in an extracurricular activity.

Concerns about the bill's requirements for deeming certain complaints frivolous and the awarding of attorney fees for a frivolous complaint could be addressed by removing those provisions in the bill.

**OPPONENTS
SAY:**

HB 1669 could set a dangerous precedent for school boards and the Commissioner of Education to decide what constitutes a frivolous complaint and for the commissioner to order attorney fees for a complaint determined to be frivolous. Under the bill's definition of a frivolous complaint, school officials would be allowed to decide that a complaint was brought with intent to harass the district when it could have been brought with no ill intent due to the complainant's misunderstanding of the grievance process.

NOTES:

According to the Legislative Budget Board's fiscal note, HB 1669 could have a positive fiscal impact for some school districts if the commissioner ordered attorney's fees to be paid by a parent or student.

The author intends to offer a floor amendment to remove language that would define a frivolous complaint and would state that district administrators and the board of trustees were not required to provide a hearing regarding a frivolous complaint. The amendment also would remove the authority for the Commissioner of Education to determine that appeals were frivolous and order attorney's fees and the requirement for the commissioner to order attorney's fees in certain complaints involving extracurricular activities.

SUBJECT: Expanding eligibility for funds to offset exemptions for disabled veterans

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — D. Bonnen, Y. Davis, Bohac, Darby, E. Johnson, Murphy, Murr, Raymond, Shine, Springer, Stephenson

0 nays

WITNESSES: For — David Mitchell and Robert Robinson, City of Harker Heights; Eric Glenn, City of Killeen; (*Registered, but did not testify*: Tom Tagliabue, City of Corpus Christi; Ender Reed, Texas Association of Counties; JJ Rocha, Texas Municipal League)

Against — None

On — Mike Esparza, Comptroller of Public Accounts

BACKGROUND: Tax Code, sec. 11.131 provides a full homestead exemption for the homestead of a 100 percent disabled veteran or a surviving spouse who maintains the homestead.

Local Government Code, sec. 140.011 provides assistance to local governments disproportionately affected by the provision of homestead exemptions to 100 percent disabled veterans under Tax Code, sec. 11.131. Only municipalities adjacent to a United States military installation or counties in which a U.S. military installation is located qualify for assistance, and a qualifying locality only may receive assistance if the locality loses at least 2 percent of its general fund revenue due to the exemption.

DIGEST: HB 2356 would expand eligibility for assistance provided by Local Government Code, sec. 140.011 to include counties adjacent to a county in which a U.S. military installation is located and any municipality at least partially within the boundaries of an eligible county.

This bill would take effect September 1, 2017, and would allow any newly

eligible locality to apply for assistance for costs imposed during a fiscal year ending in the 2017 tax year.

**SUPPORTERS
SAY:**

HB 2356 would allow the City of Harker Heights to qualify for assistance fulfilling an otherwise unfunded mandate imposed by the state. Localities near military bases, where veterans frequently choose to reside after leaving the armed services, can be disproportionately impacted by the requirement to extend a homestead exemption for the full value of a 100 percent disabled veteran's homestead.

Harker Heights loses more than 5 percent of its total general fund revenues due to this exemption, which is more than several other localities that currently qualify. However, the city does not qualify because it technically is not adjacent to a military installation, even though it is only 1.5 miles from Fort Hood. HB 2356 would allow Harker Heights to qualify and receive much-needed assistance. This bill would not increase the cost to the state, as it merely would allow the city to qualify for a program funded by existing appropriations.

The assistance program is not designed to cover the full cost of the exemption but only to compensate localities that are disproportionately affected. The addition of a single city would not compromise the program's ability to fulfill this purpose.

**OPPONENTS
SAY:**

HB 2356 would expand eligibility for assistance without increasing the appropriation for reimbursements, making fewer funds available for other qualifying localities. While Harker Heights should be afforded some form of assistance, the Legislature should increase funding for the program before expanding eligibility. Funding is stretched thin and insufficient to cover the cost of the exemption. It is likely to become increasingly insufficient as veterans age and populations of disabled veterans grow.

SUBJECT: Requiring notice to public employees about a debt forgiveness program

COMMITTEE: Government Transparency and Operation — favorable, without amendment

VOTE: 5 ayes — Elkins, Capriglione, Gonzales, Lucio, Uresti
2 nays — Shaheen, Tinderholt

WITNESSES: For — Garrett Groves, Center for Public Policy Priorities; (*Registered, but did not testify*: Glenn Scott, Left Up To Us; Dwight Harris, Texas AFT; Harrison Hiner and Tyler Sheldon, Texas State Employees Union)

Against — None

BACKGROUND: 34 CFR 685.219 establishes the U.S. Department of Education's Public Service Loan Forgiveness Program. The program forgives the remaining balance of a student's direct loans after the student has made 120 qualifying monthly payments under a repayment plan while working full-time for a qualifying employer, which includes local, state, or federal government employees, and employees of higher education, school districts, or 501(c)(3) non-profit organizations.

DIGEST: HB 2750 would require public employers to provide a written notice to new employees within five days of the employee's start date and provide notice to existing employees 10 days from the effective date of the bill about their potential eligibility to participate in the federal Public Service Loan Forgiveness Program.

The bill would take effect September, 1, 2017.

SUPPORTERS SAY: HB 2750 would help reduce the student loan debt burden many Texans face by requiring public sector employers to inform their employees about the federal Public Service Loan Forgiveness (PSLF) Program. The average student with debt in Texas graduates with about \$27,000 in loans. Some choose to become teachers or dedicate their lives to other forms of public service. Informing these public workers about the PSLF program

could save them tens of thousands of dollars each on their school loan repayments. Individuals who receive debt forgiveness could use the money that would otherwise have gone to pay off loans for other purposes that would contribute to the state's overall economy.

The majority of the nearly 2 million public employees in Texas are unaware of the PSLF program. The bill would resolve this problem by requiring public employers, such as state or county agencies or school districts and public higher education institutions, to inform their employees of the program by simply providing them with written notice explaining it. The bill would not have a significant fiscal impact to the state or cost public employers.

The bill would benefit Texas public employees who served their state and fulfilled their responsibility of repaying their loans for a 10-year period. It also would incentivize recent graduates or individuals with a college education to pursue public sector careers, which typically have less lucrative financial incentives than private sector careers. The public sector also tends to have a high turnover rate, and participating in the PSLF program could incentivize public sector employees to pursue a long-term career. The bill would promote government transparency on the opportunities for loan forgiveness and could be especially beneficial for low-income or minority communities that may have fewer opportunities to access higher education.

Texas's default rates for student loan debt are higher than the national average. Student loan default can lead to administrative wage garnishment, withholding of tax returns, collection costs, withholding of professional license renewal, and reporting to credit bureaus, among other consequences. The bill could reduce school loan default rates and incentivize a specific path for public employees to pay off their student loan debt.

Concerns about providing details to public employers on the process and mechanism for notifying employees or the time allotted to transmit information on the PSLF program could be addressed with an amendment.

OPPONENTS

HB 2750 would promote access to the Public Service Loan Forgiveness

- SAY: (PSLF) program, which has received criticism from some of those attempting to satisfy qualifications set by the federal government and receive the assured loan debt forgiveness. The state should not endorse a federal program that has not yet proven itself to be effective or capable of fulfilling its mandate to forgive loan debt for qualifying participants. The bill also would not provide enough detail or give specific direction on how employers should notify public employees on their potential eligibility for the PSLF program.
- OTHER
OPPONENTS
SAY: Providing notification about federal or other loan forgiveness programs, as would be required under HB 2750, is not the proper role of government. It is the responsibility of individuals to seek out information on loan debt forgiveness programs. The bill also could increase the use of a federal loan forgiveness program, thereby reducing federal revenue and, in effect, increasing use of a taxpayer subsidy. The state should not be incentivizing citizens to work in the public sector if they happen to have more to offer in the private sector.
- NOTES: A companion bill, SB 1060 by West, was left pending following a public hearing in the Senate Business and Commerce Committee on April 11.
- The author of the bill plans to offer a floor amendment that would revise the time allotted for transmitting information on the PSLF program from five to 30 days and allow the employer to deliver the written notice by hand delivery, mail, email, or other form of electronic communication.

SUBJECT: Standardizing definitions of energy savings performance contracts

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 12 ayes — Darby, C. Anderson, G. Bonnen, Canales, Clardy, Craddick, Guerra, Isaac, Lambert, Landgraf, Schubert, Walle

1 absent — P. King

WITNESSES: For — Glenn Gaines, Schneider Electric; (*Registered, but did not testify*;; TJ Patterson, City of Fort Worth; Jesse Ozuna, City of Houston Mayor's Office; Cyrus Reed, Lone Star Chapter Sierra Club; Michael Jewell, McKinstry; John Pitts, Texas Advanced Energy Business Alliance, Texas Solar Power Association; Joshua Houston, Texas Impact; Lucinda Saxon)

Against — None

On — (*Registered, but did not testify*: Dub Taylor, Comptroller of Public Accounts)

BACKGROUND: Energy savings performance contracting is a construction financing method that allows an entity to finance the completion of energy-saving improvements with money saved through reduced utility expenses. Interested parties say that revisions to the provisions governing these contracts could expand and maximize their returns.

DIGEST: CSHB 1571 would change the definition of "energy savings performance contract," "baseline," and "energy savings" in Local Government Code, sec. 302.001 and would make conforming changes in the Government Code and the Education Code where those definitions appear.

The bill also would allow government entities to pay the provider of energy or water conservation measures using any available money, removing the specification in current law that money for this purpose not be borrowed from the state.

This bill would take effect immediately if finally passed by a two-thirds

record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Removing river authorities from Sunset review

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 9 ayes — Larson, Phelan, Ashby, Frank, Kacal, T. King, Lucio, Nevárez, Price
2 absent — Burns, Workman

WITNESSES: For — David Mauk, Bandera County River Authority and Groundwater District; Kevin Patteson, Guadalupe Blanco River Authority; Phil Wilson, Lower Colorado River Authority; Con Mims, Nueces River Authority; Jim Campbell, San Antonio River Authority; Dean Robbins, Texas Water Conservation Association.; (*Registered, but did not testify:* Gregory Ellis, Bandera County River Authority and Groundwater District; Kent Satterwhite, Canadian River Municipal Water Authority; Ed McCarthy, Fort Stockton Holdings L.P. & TAGOP; Justin Yancy, Texas Business Leadership Council; Stacey Steinbach, Texas Water Conservation Association)

Against — David Lindsay, Central Texas Water Coalition; Kelly Davis, Save Our Springs Alliance; (*Registered, but did not testify:* Tom Glass, League of Independent Voters)

On — Chris Ulmann, Texas Commission on Environmental Quality; (*Registered, but did not testify:* Sarah Kinkle, Sunset Advisory Commission; Todd Galiga, Texas Commission on Environmental Quality)

BACKGROUND: River authorities are "special law" districts governed by a board of directors that is either elected or appointed by the governor. In general, river authorities have been created to protect and develop the surface water resources of the state, but their duties vary. They may have responsibility for flood control, soil conservation, and protecting water quality.

In 2013, the 83rd Legislature enacted HB 2362 by Keffer to allow the Legislative Budget Board to periodically review the effectiveness and

efficiency of the policies, management, fiscal affairs, and operations of a river authority. In 2015, the 84th Legislature enacted SB 523 by Birdwell to make 18 river authorities subject to Sunset review without the threat of abolishment, with the expense of the review paid by the river authorities.

DIGEST: HB 2802 would repeal the requirement that the following 18 river authorities be subject to review by the Sunset Advisory Commission:

- Angelina and Neches River Authority;
- Bandera County River Authority and Groundwater District;
- Brazos River Authority;
- Central Colorado River Authority;
- Guadalupe-Blanco River Authority;
- Lavaca-Navidad River Authority;
- Lower Colorado River Authority;
- Lower Neches Valley Authority;
- Nueces River Authority;
- Palo Duro River Authority;
- Red River Authority of Texas;
- Sabine River Authority of Texas;
- San Antonio River Authority;
- San Jacinto River Authority;
- Sulphur River Basin Authority;
- Trinity River Authority of Texas;
- Upper Colorado River Authority; and
- Upper Guadalupe River Authority.

SUPPORTERS SAY: HB 2802 would remove river authorities from being subject to an unnecessary and costly Sunset review process.

Duplicative review process. The bill would remove river authorities from being subject to a duplicative set of reviews by the Sunset Advisory Commission. River authorities already are subject to efficiency reviews by the Legislative Budget Board and annual financial audits from State Auditor's Office, as well as continued supervision and five-year management reviews required by the Texas Commission on Environmental Quality. These sets of reviews adequately address the

financial and management practices of river authorities. Furthermore, the Legislature already has the ability to place a river authority under Sunset review as deemed necessary.

Fiscal burden of Sunset review. The bill would relieve river authorities of the unfunded mandate of the Sunset review. The cost of undergoing Sunset review can pose significant financial and staffing burdens because many river authorities operate on modest budgets with five or fewer employees. For some smaller authorities, Sunset costs have amounted to nearly one-third of their budgets. These costs may end up being passed on to taxpayers and would be better invested in water projects. Additionally, river authorities do not receive general revenue, unlike most entities that are subject to Sunset review.

While responsible stewardship of the state's natural resources is a priority, imposing Sunset review on river authorities to achieve effective water resource management is somewhat arbitrary, as river authorities lack a statutory definition and have such varied responsibilities. Many government entities that are not "river authorities" also manage surface water resources, but these are not subject to Sunset review.

Transparency and public input. The bill would not unduly affect the ability of the public to have oversight over the operations of river authorities, as the authorities are government entities and are subject to numerous transparency requirements, such as open meetings, open records, and financial audits.

OPPONENTS
SAY:

Duplicative review process. HB 2802 would remove river authorities from the Sunset review process, which provides needed management oversight. While river authorities are subject to Legislative Budget Board and State Auditor's Office audits, these focus primarily on the financial operations of river authorities, rather than their management practices. Additionally, the reviews of river authorities required by the Texas Commission on Environmental Quality are not as focused on management practices as those of the Sunset Advisory Commission. The Sunset reviews of river authorities that have been conducted have yielded valuable results, such as the finding that consolidation of certain authorities would lead to more efficient and mission-oriented operations.

Other reviews did not and would not have provided these findings, as their scope and priorities are different from those of Sunset. In fact, one State Auditor's Office audit recommended that a river authority go through Sunset review to be more comprehensively evaluated.

Fiscal burden of Sunset review. The bill would eliminate Sunset review of river authorities rather than evaluate why the costs of Sunset reviews are so high. Because Texas is a water-stressed state, the value of natural resource security is high over the long run and the state should be focused on finding the best methods to manage its limited resources. Sunset review is a comprehensive management review that fulfills this need.

Transparency and public input. The bill would eliminate a venue for public input in the operations of river authorities, as Sunset reviews allow for public hearings. River authorities wield a great deal of power over the state's natural resources and should be held publicly accountable. Many authorities have appointed rather than elected boards and provide little citizen recourse for objection to management decisions.

SUBJECT: Modifying the powers and duties of certain election officers

COMMITTEE: Elections — committee substitute recommended

VOTE: 6 ayes — Laubenberg, Israel, R. Anderson, Fallon, Reynolds, Swanson
0 nays
1 absent — Larson

WITNESSES: For — George Hammerlein, Harris County Clerk's Office; Glen Maxey, Texas Democratic Party; Bill Fairbrother, Texas Republican County Chairmen's Association; Bill Sargent; (*Registered, but did not testify*: Cary Roberts, County and District Clerks' Association of Texas; Katija Gruene, Green Party of Texas; Chris Davis, Texas Association of Elections Administrators)

Against — (*Registered, but did not testify*: Brad Parsons)

On — Alan Vera, Harris County Republican Party Ballot Security Committee; (*Registered, but did not testify*: Jacquelyn Callanen, Bexar County Elections Administrator; Ashley Fischer, Secretary of State)

BACKGROUND: Election Code, ch. 32 requires each election precinct to have a presiding election judge and an alternate presiding judge affiliated with different political parties serving one year terms. These judges are appointed by the commissioners court and are selected from a list of potential judges submitted by their respective political party.

Sec. 32.007 prescribes an emergency appointment process if a situation arises where neither the presiding judge nor the alternate presiding judge can serve on election day. An emergency appointment must be made by the presiding officer of the appointing authority after making a reasonable effort to consult with the appropriate party chair. The newly appointed judge should be of the same political party as the original judge, if possible.

DIGEST: CSHB 1735 would give the county clerk authority to remove, replace, or reassign an election judge or an election clerk who caused a disruption in a polling place or wilfully disobeyed the provisions of the Election Code. A county clerk could take this action only if he or she gave the election judge or clerk an oral warning and conferred with the county chair of the same political party with which the judge or clerk is affiliated or aligned. If this created an election judge vacancy, it would be filled in the same manner as an emergency appointment. If this created an election clerk vacancy, the presiding judge would have to appoint a replacement who was affiliated or aligned with the same political party as the original clerk, if possible.

Central counting station officers and early voting ballot board members would have to repeat the following oath aloud: "I swear (or affirm) that I will faithfully perform my duty as an officer of the election and guard the purity and integrity of the election." Following the oath, each member would be issued a form of identification, prescribed by the secretary of state, to be worn by the member during his or her hours of service.

The bill would allow county election officers to petition a district court for injunctive or other relief if they determined that a ballot was incorrectly rejected or accepted by the early voting ballot board before the time set for convening the canvassing authority. In an election ordered by the governor or a county judge, the county election officer would have to confer with and establish the agreement of the county chair of each political party before petitioning the district court.

This bill would take effect September 1, 2017.

SUPPORTERS SAY: CSHB 1735 would clarify the process of removing, replacing, or reassigning election workers causing disruptions or wilfully disobeying the election code. Current law provides no direction and has left several counties to deal with these situations without any guidance. The method described in the bill has been successfully used to resolve this problem. Providing the county election official with standing to request an independent judicial review when he or she discovered an error would address a problem that has occurred in some districts.

The bill would modify the language of the oath taken by members of the early voting ballot board and the central counting station to reflect the jobs they actually perform. The current oath is general and deals with not swaying voters to vote in a certain way, which is not consistent with their job duties as these individuals do not deal directly with the voting public.

While some have voiced concerns that conferring with party chairs could leave in place unruly election workers, it is important to note that the county clerk does not select election judges or clerks. Judges and clerks are nominated by political parties and selected by the commissioner's court by precinct. Conferring with the party chair ensures that county clerks cannot abuse the authority they would be given.

**OPPONENTS
SAY:**

CSHB 1735 would require the county clerk to first concur with a party chair before removing, reassigning, or replacing an election clerk or judge. While some suggest that this provides safety against abuse of the authority given to the county clerk, it could also leave in place an election judge or election clerk who is causing disruption in the polling place or is disobeying the election code.

The bill would allow a county clerk to remove an election judge or an election clerk for "causing a disruption," which is too vague and could be interpreted multiple ways. There are imaginable instances in which an election judge or clerk may raise his or her voice due to provocation from a person within the polling place. Providing a definition for "causing a disruption" would provide clarity.

SUBJECT: Requiring TDCJ to submit report on pregnant inmates in its facilities

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — White, Allen, S. Davis, Romero, Sanford, Schaefer, Tinderholt
0 nays

WITNESSES: For — (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Jennifer Allmon, Texas Catholic Conference of Bishops; Kathy Mitchell, Texas Criminal Justice Coalition)

Against — None

On — Lorie Davis and Lannette Linthicum, Texas Department Criminal Justice

BACKGROUND: The 84th Legislature in 2015 enacted HB 1140 by Israel, which required county sheriffs to submit a report on pregnant inmates' confinement conditions in county jails by September 1, 2016. The report had to summarize the implementation of health care services for pregnant inmates; the number of miscarriages pregnant inmates experienced while confined; pregnant inmates' nutritional standards, housing conditions, and work assignments; and situations involving the use of restraints.

DIGEST: HB 239 would require the Texas Department of Criminal Justice (TDCJ) to collect data and submit a report on the confinement of pregnant inmates in facilities operated by or under contract with it. The report would include:

- a description of TDCJ's implementation of policies and procedures for providing adequate care to pregnant inmates and any policies adopted by TDCJ on the placement of a pregnant inmate in administrative segregation;
- information on the availability of certain health care services to pregnant inmates;
- a detailed summary of pregnant inmates' nutritional standards,

work assignments, and housing conditions;

- situations involving the use of restraints; and
- the number of miscarriages experienced by pregnant inmates in TDCJ facilities between September 1, 2017, and September 1, 2018.

TDCJ would have to submit the report to the governor, lieutenant governor, speaker of the House, and the applicable House and Senate standing committees by December 1, 2018.

The bill would take effect September 1, 2017, and would expire February 1, 2019.

**SUPPORTERS
SAY:**

HB 239 would establish uniformity between county jails and all facilities operated or contracted by the Texas Department of Criminal Justice (TDCJ) and increase transparency in the standard of care pregnant inmates received at those facilities. Extending the one-time reporting requirement of pregnant inmates' confinement conditions from county jails to TDCJ's facilities would help policymakers identify best practices and ongoing challenges of housing pregnant inmates. More data is necessary to ensure pregnant inmates receive an adequate level of medical and nutritional care.

**OPPONENTS
SAY:**

No apparent opposition.

SUBJECT: Removing and replacing the offense of unlawful restraint of a dog

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — Price, Sheffield, Arévalo, Burkett, Collier, Cortez, Guerra,
Klick, Oliverson, Zedler

0 nays

1 absent — Coleman

WITNESSES: For — Alexandra Johnston, Denton County Sheriff's Office; Nancy Bellows, Society for Animal Rescue and Adoption (SARA); Art Munoz, SPCA of Texas; Jamey Cantrell, Texas Animal Control Association; Shelby Bobosky, Texas Humane Legislation Network; Jeff Honea, Wolfe City Police Department; Linda Halpern; (*Registered, but did not testify*: Donna Warndorf, Harris County; Katie Jarl, the Humane Society of the United States; Laura Donahue, Karen Roberts, and Skip Trimble; Texas Humane Legislation Network; Shanna Igo, Texas Municipal League; Elizabeth Choate, Texas Veterinary Medical Association; and 65 individuals)

Against — None

BACKGROUND: Health and Safety Code, ch. 821, subch. D defines and establishes an offense for the unlawful restraint of a dog. A person whom a peace officer or animal control officer believes is in violation of the law must receive a written warning and 24 hours to comply. Those who fail to comply commit a class C misdemeanor (maximum fine of \$500). Subsequent offenses are a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

DIGEST: HB 1156 would repeal Health and Safety Code, ch. 821, subch. D and create a new subchapter defining and establishing an offense for the unlawful restraint of a dog.

The bill would prohibit an owner from leaving a dog unattended and

restrained outside unless the owner provided the dog with potable water, along with adequate shelter and shade from direct sunlight in an area where the dog could avoid standing water.

An owner could not restrain a dog unattended outside with a restraint that:

- was a chain;
- had weights attached;
- was shorter than the greater of five times the dog's length or 10 feet;
- was not attached to a properly fitted collar or harness; or
- caused pain or injury to the dog.

The bill would not apply to a dog restrained while:

- in a public camping or recreation area in compliance with that area's policies;
- the owner and dog were engaged in an activity associated with the use or presence of a dog and related to a valid state license;
- shepherding or herding cattle or livestock;
- engaged in an activity related to cultivating agricultural products; or
- left in an open-air truck bed for no longer than necessary while the owner was completing a temporary task.

HB 1156 would not apply to a restraint attached to a trolley system that allowed the dog to move along a running line equal to or longer than the restraint length requirement described above. The bill also would not prohibit a person from walking a dog with a handheld leash.

A violation of HB 1156 would be punishable by a class C misdemeanor (maximum fine of \$500), with subsequent violations punishable by a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000). Each dog restrained in violation of HB 1156 would be a separate offense.

The bill would not affect the applicability of other laws, would not prevent an offense from being prosecuted under another applicable law,

and would not prevent a municipality or county from further regulating the care of a dog.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

HB 1156 would replace a currently unworkable law requiring peace officers to give a written warning and 24 hours to comply with restraint requirements before issuing a citation. Because of this requirement, no one has been prosecuted under the law since its enactment in 2007. Many individuals temporarily amend their behavior only to return to improper restraint practices after the 24 hour warning period has ended. Additionally, officers in rural areas may not have time to return to check on an improperly restrained dog. Giving peace officers the ability to issue a citation upon a first offense would correct the situation and stop abusive owners from continuing to improperly restrain their dogs.

The bill would clarify existing law so that dog owners and peace officers knew the exact requirements for tethering a dog and the associated punishments. Issuing a citation for the unlawful restraint of a dog could catch the problem before it became too severe, preventing it from escalating to the level of animal cruelty punishable under Penal Code, sec. 42.092. This preventive step not only would curb animal cruelty but also could reduce the potential jail time served for the associated charges. This in turn could decrease the number of people taken to jail and help ease crowding.

The bill would not infringe upon the activities of hunters, ranchers, or farmers because it contains exemptions that would allow a dog to be tethered during these activities.

An exception for a dog to be restrained outside a public place while its owner is inside is unnecessary, as it is only a few feet from its owner and is effectively being attended to. Peace officers have discretion for the enforcement of code and could make reasonable judgment about the appropriateness of leaving a dog tethered outside of a public place for less than an hour. Furthermore, such an exception would be unenforceable because an animal control officer or peace officer would need to have been present for more than one hour.

OPPONENTS
SAY: HB 1156 is unnecessary because current law provides adequate regulation for the restraint of a dog. In addition, Penal Code, sec. 42.092 addresses the issue by establishing the offense of animal cruelty.

The bill could infringe on the activities of hunters, ranchers, and farmers by limiting their ability to restrain their dogs in the course of their activities.

OTHER
OPPONENTS
SAY: HB 1156 should make exceptions for temporary restraint of a dog for not longer than necessary and no longer than an hour outside a public place where the dog was not admitted while the owner completed a task inside.

NOTES: A companion bill, SB 1090 by Lucio, was approved by the Senate on April 10 and referred to the House Public Health Committee on April 18.

SUBJECT: Notifying certain victims of criminal offenses of subsequent indictments

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — White, Allen, Romero, Sanford, Schaefer, Tinderholt
0 nays
1 absent — S. Davis

WITNESSES: For — None
Against — None
On — Angie McCown, Texas Department of Criminal Justice

BACKGROUND: Code of Criminal Procedure, art. 42A.054 prohibits defendants convicted of certain violent offenses or who used or brandished deadly weapons in certain circumstances from being sentenced to community supervision by a judge.

DIGEST: HB 104 would require prosecuting attorneys to give notice to the Texas Department of Criminal Justice (TDCJ) within 10 days of a subsequent indictment of an individual who had been released from imprisonment for an offense where judge-ordered community supervision was unavailable. TDCJ would have to make a reasonable effort to notify any victims, guardians of victims, or close relatives of deceased victims who had requested such notice of the offense charged in the indictment. The only indictments requiring notice would be offenses to which judge-ordered community supervision did not apply.

TDCJ would be required to adopt procedures whereby victims, guardians of victims, or close relative of victims of serious offenses could request to be notified of subsequent indictments where judge-ordered community supervision did not apply. TDCJ or the Texas Board of Criminal Justice could not disclose the name or address of victims, their guardians, or their relatives unless they approved the disclosure or the court determined there

was good cause to disclose it.

The bill would take effect September 1, 2017, and would apply only to a criminal case in which the indictment was presented to the court on or after December 1, 2017.

**SUPPORTERS
SAY:**

HB 104 would help protect victims of violent offenders by keeping them informed about the offender's activities in certain circumstances. While the goal of incarceration is to rehabilitate, many offenders who have completed their sentences are unrepentant and could be dangerous. TDCJ already has other victim notifications in place, and one more type of notification would not create an administrative burden. Notices would be sent only to the individuals who requested them, so those who preferred to be left alone would be.

**OPPONENTS
SAY:**

No apparent opposition.